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BAKER & HOSTETLER LLP
Suite 1100
Washington Square
1050 Connecticut Avenue, N.W.
Washington, DC 20036

EXAMINER

MCCALL, ERIC SCOTT

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2855

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Please find below and/or attached an Office communication concerning this application or proceeding.

**METHOD AND APPARATUS FOR TESTING FLUID
FLOW AND FLUSHING A TRANSMISSION COOLER**

FINAL OFFICE ACTION

In response to the Applicant's amendment dated July 05, 2005.

CLAIMS

35 U.S.C. § 112

In response to the Applicant's amendments, the rejection of claims 1-20, 22, and 24-26 under 35 U.S.C. 112, second paragraph, as set forth in the previous office action (March 08, 2005), has been overcome

35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 6, 7, 9, 13, 21-31, and 34-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Viken (Re. 36,650).

With regards to claim 1, Viken suggests an apparatus for testing fluid flow and flushing a transmission cooler as claimed, comprising:

- a user interface panel (P);
- a fluid supply line (H) and a fluid return line (D6/D7);
- a pressure switch, a manual shut off valve, a filtering system (ie. transmission filter), and a flow switch coupled to the return line (fig. 2);

- a reservoir tank (the area of the transmission which contains the transmission fluid and is partially defined by the transmission pan of the transmission, T) for containing automatic transmission fluid and is in fluid communication with the fluid return line;

- a heating element located within the reservoir tank (the components of the transmission in contact with the transmission fluid that is contained by the transmission fluid pan are interpreted as a heating elements because the operation thereof heats the transmission fluid);

a fluid fill port (F) connected to the reservoir tank;
an air operated fluid pump (70) coupled to the reservoir tank; and
an air injection system (A1) coupled to the fluid pump and the supply line.

Dependent claims 2, 3, 6, 7, 9, and 13 are rejected for the same reasoning as presented in the previous office action.

With regards to claim 21, Viken suggests a method of testing fluid flow and/or flushing a transmission cooler comprising:

providing a supply of automatic transmission fluid to cycle through the transmission cooler;

heating the supply of automatic transmission fluid with a heating element contained in a reservoir (the components of the transmission in contact with the transmission fluid that is contained by the transmission fluid pan, ie. reservoir, are interpreted as a heating elements because the operation thereof heats the transmission fluid);

supplying the automatic transmission fluid through a fluid supply line (H) connected to a line of the transmission cooler;

re-circulating the automatic transmission fluid from a line of the transmission cooler into a connected fluid return line (D6/D7);

filtering the re-circulated automatic transmission fluid (via the transmission filter); and
returning the filtered automatic transmission fluid back into the supply (H) of automatic
transmission fluid.

Claims 22-26 are rejected for the same reasoning as presented in the previous office
action.

With regards to claim 27, Viken teaches a system for testing fluid flow and/or flushing a
transmission cooler comprising:

means for supplying automatic transmission fluid (H, Fig. 1) to cycle through the
transmission cooler (C);

means for heating located within the supply means of automatic transmission fluid (via
the operation of the transmission);

means for progressing the automatic transmission fluid through a fluid supply line
connected to an out line of the transmission cooler (Fig. 1);

means for re-circulating the automatic transmission fluid from an in line of the
transmission cooler into a connected fluid return line (Fig. 1);

means for filtering the re-circulated automatic transmission fluid (via the transmission
filter); and

means for returning the filtered automatic transmission fluid back into the means for
supplying automatic transmission fluid (constant circulation of transmission fluid).

Art Unit: 2855

Claims 28-31, 34, and 35 are rejected for the same reasoning as presented in the previous office action.

With regards to newly added claim 36, the air injection system (A1) of Viken will inherently cause a turbulence in the automatic transmission fluid as claimed.

35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Viken (Re. 36,650).

Viken fails to teach a temperature sensor for detecting the temperature of the automatic transmission fluid.

However, the use of automatic transmission fluid temperature sensors are very well known and commonly used in the art.

As such, it would have been obvious to one having ordinary skill in the art to modify the teaching of Viken by including a temperature sensor that detects the temperature of the automatic transmission fluid.

The motivation being that the use of an automatic transmission fluid temperature sensor allows for the constant monitoring of the transmission fluid temperature in order to ensure the proper operation thereof and to help prevent any costly repairs.

Allowable Subject Matter

Claims 4, 5, 8, 10, 12, 14-20, 32, 33, and 37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

RESPONSE TO ARGUMENTS

The Applicant's arguments have been considered but have not been found to be persuasive.

Specifically, the Applicant has argued that the applied prior art of Viken does not disclose a heating element contained within a reservoir tank as claimed. The Examiner disagrees. Giving the claims their broadest, yet reasonable interpretation, the reservoir tank, as claimed, has been interpreted as being the area within a transmission which holds the transmission fluid. This

Art Unit: 2855

area is defined by the attachment of the transmission fluid plan to the transmission. Within this area is operating transmission parts which create significant amounts of heat during operation.

The transmission fluid is used to keep the operating temperature within a given range.

Nonetheless, the heat of these transmission parts heat the fluid, and thus the prior art suggests a "heating element" located within the reservoir tank as claimed.

Next, the Applicant argues that the reservoir of the teaching of Viken is that of reservoir 11 and that reservoir 11 does not contain a heating element. The Examiner disagrees. Reservoir 11 is just one reservoir of the entire system but not the only reservoir. Reservoir 11 contains fresh transmission fluid. The reservoir of the transmission contains the used transmission fluid which is to be replaced. The reservoir of the transmission is that which is relied upon by the Examiner.

Next, the Applicant argues that the transmission is not part of the flushing system of the prior art. The Examiner disagrees (see Fig. 1). Without the transmission, no flushing would take place. The transmission is essential to the flushing system.

Finally, the Applicant has argued that their flushing apparatus does not claim the transmission as a component. The Examiner however points that the Applicant's claims, as worded, does not exclude the transmission from the apparatus.

CONCLUSION

The Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Eric S. McCall whose telephone number is (571) 272-2183.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2855

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Eric S. McCall
Primary Examiner
Art Unit 2855
Sep. 08, 2005